

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

June 17, 1948

Council Chamber, City Hall

The meeting was called to order, with Mayor Miller presiding.

Roll call

Present: Councilmen Bartholomew, Glass, Johnson, Mayor Miller - 4

Absent : None

Present also: Guiton Morgan, City Manager; J. E. Motheral, Director of Public Works; Trueman E. O'Quinn, City Attorney; Walter E. Seaholm, Director of Utilities; and R. D. Thorp, Chief of Police.

The reading of the Minutes was dispensed with.

Pursuant to published notice, the public hearing on the petition of the Missouri Pacific Railroad to build a passenger depot at Lamar Boulevard and Third Street was held.

Messrs. R. H. Kelley, F. E. Bates, and other officials of the Missouri Pacific Railroad, together with a group of citizens, were present.

Mr. F. E. Bates, Chief Executive Officer of the Missouri Pacific Railroad in Texas, in support of their petition, submitted the following facts in writing:

" The IGN Railroad played an important part in the early development of central Texas and the cities along its line. We have always considered Austin, with its State Capitol and great university, as one of the most important cities we serve. When this line was constructed in the early eighties, Austin was a small town and in those days it was important that the railroad station be located on the main street for the convenience of the traveling public. The back-up move to the present passenger station was comparatively unimportant in the early days as train schedules were relatively slow and passenger competition was non-existent.

As Austin grew, additional streets were open across the back-up tracks to the station, vehicular traffic increased and

the construction of industries interfered with the view of the traveling public until today this back-up movement creates a real hazard.

Today, transportation competition is keen and the railroads are faced with the necessity of shortening schedules and acquiring modern equipment to meet other forms of competition if they are to retain and enjoy present volume of passenger traffic.

The backing of our trains into the present station consumes approximately 15 minutes per train which means an equivalent lengthening of the schedules. The Missouri Pacific, including the IGN, is currently investing several million dollars in new, light-weight, streamlined, passenger train equipment with the view of improving its service between St. Louis and Texas points, including Austin, which will result in a saving of approximately four hours running time. This equipment will be of the most modern type and comparable to the best equipment now in operation any where in this country. To make this reduction in running time it is necessary that we eliminate unnecessary delays, such as the back-up move into Austin. The Missouri Pacific has confidence in the future of Austin and the other cities in Texas which it serves and feels that the improved equipment and service will permit it to increase its passenger traffic to justify the cost involved.

The IGN station on Congress Avenue is the original station built in the eighties in what might be called the "horse and buggy" days. While it probably was a credit to the railroad in the early days, it now might be termed a monstrosity and hopelessly outmoded.

I have outlined briefly the reasons why we are today asking you to approve the plan for the abandonment of our present passenger station and the construction of a new passenger station at the intersection of our tracks and Lamar Boulevard. The proposed station will cost in the neighborhood of \$150,000 to \$175,000 and will provide a facility which the City of Austin will be proud of. It will be of modern architecture, of ample size to take care of present and future passenger station requirements and will provide ample parking space for our patrons. We expect to beautify the grounds of the station area so that they will blend into and become a part of the future Riverside Park. We believe that it will be more convenient to the traveling public than the present station. We are strengthened in this belief by the spontaneous action of 4,766 property owners in Austin who signed our petition approving the relocation of the station.

The layout for the proposed station has been worked out and the entrance into the station grounds can be modified as necessary to avoid interfering with the possible future separation of grades on Lamar Boulevard.

There has been some comment during the past thirty days of the desirability and necessity for a union station in Austin. Prior to the development of our highway system, railroad passenger traffic was largely local traffic and there was considerable interchange of passengers between railroads. Today, local traffic has largely disappeared and the majority of railroad passenger travel is long-haul traffic. The interchange of passenger traffic today between the Missouri Pacific and the Southern Pacific and MKT at Austin is practically non-existent. Many years ago, we entered into a contract with the local baggage transfer company at Austin for the free transfer of baggage from one railroad station to another for the accommodation of passengers transferring from one road to another. Our records show that the transfer company has moved no baggage for many years. A union station is of no value to the traveling public except to transfer from one train to another, therefore it would be of no value to Austin.

Certain interests at Austin have for many years been promoting the idea of relocating the railroads through the city. Such a plan, if found to be economically feasible, would cost many millions of dollars, a large proportion of which should, in equity, be paid by the public. The development and financing of the plan would take a considerable period of time. The construction of the passenger station now proposed by the IG&N at a cost of \$150,000, or even \$200,000, would in no way block the ultimate plan should it be economically justified. Why, then, should Austin pass up the opportunity to secure a new station now instead of waiting years for it?

The Missouri Pacific feels that it is an industry in this city; it is interested in your welfare; it prospers when you prosper; its officers like to be treated as home folks in your city.

I wish to take this opportunity to thank the many citizens of Austin for their generous and wholehearted support of this project, the Chamber of Commerce and the Plan Commission for their favorable action in approving the project, and the Mayor and other city officials for their fair and unbiased attitude in considering the proposed plan. "

The Mayor then gave a brief review of the history of the railroad relocation plan, pointing out that the Koch & Fowler City Plan, adopted in 1927, recommended the relocation of the railroads and the building of a union station at East Avenue, and had that plan been carried out, the City would now be up against the same situation. In 1944, just before D-Day, at the insistence of some of the planners that the rail relocation plan be taken up for consideration, the City Council met in conference with the City Plan Commission and the Railroad officials and it was agreed that a competent engineer be employed to make a survey of the situation and the City appropriated the money for that purpose, but was unable to find an engineer. The Missouri Pacific Railroad is now asking permission to abandon its present passenger depot and build a new one at the corner of Lamar Boulevard and West Third Street, with parking

space for approximately two hundred cars in order to shorten the schedule of their new streamlined trains.

Councilman Glass brought up the matter of his request that the freight trains of the Missouri Pacific Railroad be routed so as to avoid blocking the streets on the west side, and Mr. Bates declared that it was found to be impracticable to move their switches, but that it was their intention to block the streets as little as possible in the conduct of their business.

No citizen appeared to protest the granting of the petition. Landon Bradfield, who had previously voiced objections to same, declared that his objections would be withdrawn if the Order approving the petition provided that same would not affect the rail relocation plan; and if the citizens committee to study said plan would be appointed before the next Legislature meets. He was assured by the Mayor that said committee would be appointed within the next two weeks.

Thereupon the Mayor laid before the Council the following:

ORDER OF THE CITY COUNCIL OF THE
CITY OF AUSTIN PERMITTING CERTAIN
CHANGES, RELOCATING, AND ABANDON-
MENT OF RAILROAD LINES AND FACILI-
TIES.

WHEREAS, on the 17th day of May, 1948, Guy A. Thompson, Trustee, International-Great Northern Railroad Company, Debtor, filed with the City Clerk of the City of Austin, Texas, his petition (supported by the names and signatures of more than five hundred resident citizens of the City of Austin, property owners in said City) to the City Council of the City of Austin for the relocation of his passenger depot and the abandonment, for passenger purposes, of certain tracks and facilities more particularly described in said petition; and

WHEREAS, thirty days have expired since the filing of said petition with the City Clerk; and, pursuant to the order and direction of the City Council, public notice of the filing of said petition and of the date and time of a public hearing to be held thereon this day by the City Council has been given by publication thereof for two consecutive weeks (in fact, for fourteen consecutive days after the filing of said petition and before the date so fixed for such hearing) in the Austin American-Statesman, a newspaper of general circulation within the limits of the City of Austin; and

WHEREAS, on the date and at the time fixed by such published notice the City Council began, and thereafter carried to a conclusion, a public hearing on such petition and the matters involved therein; and

WHEREAS, the granting or approval of said petition will not waive or in any manner release or abandon any of the powers of the City of Austin hereafter to require the relocation or removal of any railroad tracks or facilities; and

WHEREAS, the City Council is of the opinion that the change, relocation, arrangements and abandonment described in and proposed by said petition

are in and for the public interest; NOW, THEREFORE,

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS:

1. That the change, relocation, arrangements and abandonment described in and proposed by said petition shall be, and hereby each and all of the same are, approved, permitted and allowed.

2. That the City Clerk is hereby directed to deliver to the said petitioner, Guy A. Thompson, Trustee, or to Hardy Hollers, of Austin, Texas, his attorney, for filing with the Railroad Commission of Texas, the petition filed as aforesaid with the City Clerk, and all the signatures and endorsements supporting same, together with a certified copy of this order.

Councilman Glass moved, seconded by Councilman Johnson, that the above Order be adopted. The motion carried by the following vote:
Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Pursuant to published notice, the public hearing on the application of T. H. Williams, Jr., to amend the Zoning Ordinance in the following particular:

To amend the USE designation of the following described property so as to change the same from "B" Residence District and Second Height and Area District to "C" Commercial District and Second Height and Area District:

Lots 5 and 6, Block 75, of the Original City, located on the south side of West 7th Street between Rio Grande and Nueces Streets, in the City of Austin, Travis County, Texas, and the recommendation of the Board of Adjustment that Lots 7 and 8 of said Block be also included,

was duly opened.

The following appeared and plead for the change substantially as follows:

T. H. Williams, Jr., proponent, and J. H. Hart, Attorney, declared that the property is no longer suitable for residential use and that he is asking for the change to permit him to erect either an office building or a building for retail stores.

The following appeared in opposition to the change substantially as follows:

R. T. Badger declared that he objected to the change as he and his wife intended to retain their property as a home for the rest of their lives and to change same to commercial would be of no value to them, but would increase their taxes. He further stated that Henry Maerkl was also opposed to the change on his property.

No other property owner or interested person appearing to be heard, Councilman Johnson moved that the change be granted for Lots 5 and 6, Block 75, Original City, only, and that the City Attorney be instructed to prepare the ordinance accordingly. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Pursuant to published notice, the public hearing on the application of Barney Slaughter for the United Builders to amend the Zoning Ordinance in the following particular:

To amend the USE designation of the following described property to as to change the same from "B" Residence District and Second Height and Area District to "A" Residence District and First Height and Area District:

Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18, Block B, Bluff View Addition, being located at the intersection of Josephine and Hillmont Streets, in the City of Austin, Travis County, Texas,

was duly opened.

No property owner or other interested person appearing to protest the proposed change, Councilman Glass moved that the change be granted and the City Attorney be instructed to prepare the ordinance. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Pursuant to published notice, the public hearing on the application of Harry S. Wilder to amend the Zoning Ordinance in the following particular :

To amend the USE designation of the following described property so as to change the same from "A" Residence District and First Height and Area District to "C" Commercial District and First Height and Area District, to-wit:

Lots 13, 14, and 15, Wilder Addition, Section 1, and a tract of land 143'x176.84' lying east of these lots, all located in the Susan E. Hancock Subdivision out of the George W. Spear League, in the City of Austin, Travis County, Texas,

was duly opened.

No property owner or other interested person appearing to protest the proposed change, Councilman Bartholomew moved that the change be granted, and the City Attorney be instructed to prepare the ordinance. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Pursuant to published notice, the public hearing on the application of Mrs. Kathleen Pratt to amend the Zoning Ordinance in the following particular:

To amend the USE designation of the following described property to as to change the same from "A" Residence District to "B-1" Residence District:

Lot 5, Outlot 64, Division "D", located on the west side of Salado Street 330 feet south of West 28th Street, in the City of Austin, Travis County, Texas.

was duly opened.

The following appeared in support of the change:

NONE.

The following appeared in opposition to the change, substantially as follows:

Mrs. Robt. Law and Dr. Edward Micek opposed the change on the grounds that same would depreciate the value of their property, and that if the City expects them to accept higher valuations on their property and pay additional taxes on same, it should not depreciate its value; that, while there are smaller apartments there, they are not as objectionable as larger ones would be.

No other property owner or interested person appearing to be heard, Councilman Glass moved that the matter be deferred to the next regular meeting for an inspection of the property. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

Pursuant to published notice, the public hearing on the application of George W. Bickler to amend the Zoning Ordinance in the following particulars:

To amend the USE designation of the following described property so as to change the same from "A" Residence District to "B-1" Residence District:

Lot A (110'x114') being the northwest corner of Outlot 64, Division "D", located at the southeast corner of West 28th Street and San Pedro Street, in the City of Austin, Travis County, Texas,

was duly opened.

The following appeared in support of the change:

George W. Bickler, proponent, who stated that he was asking for the change in order to sell the property for an apartment site.

The following appeared in opposition to the change:

Mrs. Robt. Law and Dr. Edward Micek, who opposed the change for the same reasons as stated in their protest against the change on the property of Mrs. Kathleen Pratt.

No other property owner or interested person appearing to be heard, Councilman Glass moved that the matter be deferred to the next regular meeting for an inspection of the property. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The following report of the Board of Adjustment was received:

"ZONING BOARD OF ADJUSTMENT
AUSTIN, TEXAS
ZONING CHANGE RECOMMENDATION .

Applicant : Sam R. Wood

I. Referred to the Board by the City Council on : June 3, 1948

II. Property affected:

The "A" Residence portion of a tract of land described as approximately one acre out of the Spear League, being located 132 feet south of the south line of Oran Street on the east side of Burnet Road in the 4800 block.

III. To be changed

From : "A" Residence District and First Height and Area District

To : "C" Commercial District and Second Height and Area District

IV. Considered by the Board on : June 15, 1948

V. Parties appearing:

For : Sam R. Wood

Against:None

VI. Action of the Board : Change recommended

For the following reasons:

1. This application is for an extension of the present commercial zone along Burnet Road to include the remainder of the applicant's property, the front 150 feet being in a "C" Commercial District and the remaining 141 feet being in "A" Residence District with no frontage on a street.

2. The applicant affirms that he has a grocery store on this property with a setback great enough to provide off-street parking and later proposes to erect an addition to the building to provide for storage space in connection with this business, but at the present time proposes to operate a trailer camp until he can erect the building, the residential portion of the property not being suitable for residence development because of its location in the rear of his commercial property.
3. The adjacent property owner on the east appeared and stated he had no objection to this change, and adjoining property on the north and south is subdivided with deep lots similar to that owned by the applicant.
4. The Board deemed that this change would be a logical extension of the existing commercial zone to provide for proper development of the property which is not suitable for residential development, and that the change would not adversely affect the surrounding property because of the manner in which the property is subdivided, and further because, for normally subdivided property, the Ordinance provides that boundary lines shall be property lines, streets or alleys, and where a parcel of land is not susceptible to further subdivision the property owner would be able to incorporate the remainder of his lot in the zone fronting on the street.

(Sgd) H. F. Kuehne
Chairman. "

Councilman Bartholomew moved that a public hearing on the foregoing change in zoning be called for Thursday, July 8, 1948, at 11:00 A. M. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The following report of the Board of Adjustment was received:

#ZONING BOARD OF ADJUSTMENT
AUSTIN, TEXAS
ZONING CHANGE RECOMMENDATION .

Applicant: Goldsmith and Bagby for various property owners.

I. Referred to the Board by the City Council on : June 3, 1948

II. Property affected:

Lots 1 to 14, Block 1, Connelly Addition; 1/2 acre, J.P. Wallace Survey No. 57, Abst. 789; 1/2 acre, J.P. Wallace Survey No. 57, Abst. 789; and Lots 6 and the south one-half of 5, Block 5, Ridgetop Fourth Addition; and 1.76 acres, outlot 17, Division #C#; all as shown on the attached plat and being located on the west side of East Avenue from a point 194.64 feet south of East 46th Street to a point 750 feet north of East 46th St.

III. To be changed

From: "A" Residence District and First Height and Area District
 To : "C" Commercial District and First Height and Area District

IV. Considered by the Board on : June 15, 1948

V. Parties appearing:

For : Arthur Bagby, W. P. Connelly, Forest Hausman, Louis J. Moran,
 H. H. Lenthe

Against: C. N. Avery, Jr., Mr. and Mrs. H. E. Rossy, E.H. Kaepfel,
 Bascom Giles, A. Roy Thomas, Mrs. J.R. Crawford, H.P. Drought,
 W. E. Wilcox, L. F. Tidwell, W. L. Fanning, Morris B. Nichols,
 Mr. and Mrs. John P. Dyess, John Pechacek, Mrs. Jas. E. Collins,
 Gordon Mills, and others who signed a petition protesting
 the change.

VI. Action of the Board : Change not recommended

For the following reasons:

1. This application is for a change of zoning on property located on the west side of East Avenue from the intersection with Airport Boulevard to a point 750 feet north of East 46th Street.
2. This property now fronts on East Avenue which will be converted into the Interstate Highway passing through Austin in the near future, for which purpose a strip 100 feet in depth will be, or already has been, acquired by the City of Austin, leaving an average depth of 189 feet and will be approximately 1055 feet in length which would make this a "C" Commercial District but not a Community Center in accordance with the definitions of the Ordinance, and, therefore, would permit all uses now allowed in this zone.
3. The property across East Avenue to the east has been subdivided into a residential area, the deeds for lots restricting the use of the property fronting on East Avenue to residential purposes only.
4. At the hearing, a large number of property owners appeared protesting this change and presented a petition signed by sixty-four residents and property owners who oppose this change.
5. Due to the restricted character of the property on the east side of East Avenue, the protestants claimed that zoning the west side for commercial purposes would discriminate against them and adversely affect their property as they would have no opportunity to enjoy the same benefits that will accrue to the opposite property owners, and further that this is primarily and essentially a residential area and extensively developed for this purpose. The protestants further contend that the property requested to be changed is subject to the same development as the property on the east side of East Avenue since most of the property to the west thereof is

already developed for residential purposes and that there is already sufficient commercial property at the intersections of Airport Boulevard, East Avenue and East 45th Street, at Airport Boulevard and 48th Street, on Airport Boulevard from 50th Street north to Reinli Street, on East Avenue from 50th Street to 52nd Street, and on East Avenue from 39th Street to Wilshire Boulevard, to serve this entire area for many years.

6. The Board deemed that, considering all the conditions and circumstances surrounding this property, the rights and equities of the present property owners, and the character of the neighborhood, that to change this property is not justifiable because it would not constitute a Community Center due to its size, that there is no public demand or necessity for this commercial property, that this present residential development is based on the assumption that it was the policy of the Council in the zoning of this property that it should be a residential area in harmony with the trend of development and suitability of the land for this purpose.

(Sgd) H. F. Kuehne
Chairman. #

Councilman Bartholomew moved that a public hearing on the foregoing change in zoning be called for Thursday, July 8, 1948, at 11:00 A. M. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of Samuel P. Ingram and Mary Lee Ingram for change in zoning, from "A" Residence District to "C" Commercial District, of property located at 1206 West Avenue, was received. Councilman Glass moved that the matter be referred to the Board of Adjustment for consideration and recommendation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Councilman Johnson introduced the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, JULY 17, 1941, AND RECORDED IN ORDINANCE BOOK "L", PAGES 152-174, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, WHICH ORDINANCE WAS AMENDATORY OF THAT CERTAIN ORDINANCE ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN PASSED BY THE CITY COUNCIL APRIL 23, 1931, AND RECORDED IN ORDINANCE BOOK "I", PAGES 301-318, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, THE AMENDATORY ORDINANCE HEREBY CHANGING THE USE DESIGNATION FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "B-1" RESIDENCE DISTRICT AND SECOND HEIGHT AND AREA DISTRICT ON LOTS 1 AND 2, BLOCK 2, OUTLOT 69, BYRNE SUBDIVISION, AND CHANGING THE USE DESIGNATION FROM "A" RESIDENCE DISTRICT AND FIRST HEIGHT AND AREA DISTRICT TO "D" INDUSTRIAL DISTRICT AND THIRD HEIGHT

AND AREA DISTRICT ON PORTIONS OF LOTS 5 AND 6, AND ALL OF LOT 7, SIEGMUND ADDITION, OUTLOT 40, DIVISION "A", ALL IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; ORDERING A CHANGE IN THE USE MAPS SO AS TO RECORD THE CHANGES HEREBY ORDERED; AND DECLARING AN EMERGENCY.

The ordinance was read the first time and Councilman Johnson moved that the rule be suspended and the ordinance be passed to its second reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the second time and Councilman Johnson moved that the rule be further suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Johnson moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

W. D. Hart, Attorney for L. L. McCandless, owner of Burnet Heights Addition, stated to the Council that his client had put up the necessary deposit for extension of utilities to his Addition, and asked that, pending the passage of the ordinance extending the boundary limits to include his Addition, the City give him a guarantee in writing that when and if said Addition is taken into the city limits he will be refunded for this deposit. The matter was referred to the City Manager for attention.

The Mayor laid before the Council the following ordinance:

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF AUSTIN AND THE ANNEXATION OF CERTAIN ADDITIONAL TERRITORY CONSISTING OF 68.58 ACRES OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE, IN TRAVIS COUNTY, TEXAS, WHICH SAID ADDITIONAL TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS OF THE CITY OF AUSTIN, IN THE PARTICULARS STATED IN THE ORDINANCE.

The ordinance was read the first time and Councilman Glass moved that the ordinance be passed to its second reading and laid over for publication, as required by the City Charter. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was then laid over.

Willie L. Rieger, 1956 East Avenue, submitted a request for more consideration on the sale of his home for right-of-way for the interregional

highway. The Council took the matter under advisement for an inspection of his property at 4:00 P. M. of this day.

R. W. Chambers renewed his request for a franchise to operate a sight-seeing bus in the City, stating that he now has the busses ready to put into operation. The matter was referred to the City Manager and the City Attorney to work out the details with the said R. W. Chambers.

A petition signed by property owners on Chalmers, Eighth, and Ninth Streets, asking for correction of a bad drainage condition there, and also for a street light at the corner of Ninth and Chalmers Streets. The matter was referred to the City Manager, the Director of Public Works, and the Director of Public Utilities for attention.

Councilman Glass introduced the following ordinance:

AN ORDINANCE GRANTING TO TEXAS PUBLIC SERVICE COMPANY A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS DISTRIBUTING PLANT AND SYSTEM IN THE CITY OF AUSTIN, AND PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UPON AND UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED.

The ordinance was read in full the first time and Councilman Glass moved that the ordinance be passed to its second reading and laid over. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller

Noes : None

The Mayor stated that there would be one or more public hearings on the above ordinance before its final passage or effective date.

Wm. Lawlor, Jr., Vice President and General Manager, and other officials of the Texas Public Service Company were present and discussed the provisions of the Ordinance, particularly the amount of gross receipts tax to be agreed upon, the Company agreeing to not more than 2% and stating that Dallas was the only city in the State receiving higher than 2% gross receipts tax, but that its domestic and commercial rates were higher than those in Austin. After considerable discussion, it was stated by the Mayor that while the City was unable legally to levy more than a 2% gross receipts tax, that was a tentative figure and not binding upon the City, and that further negotiations with the Company for a higher tax would be had, but not at the expense of the consumer.

Councilman Johnson offered the following resolution and moved its adoption:

(RESOLUTION)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Manager be and he is hereby authorized and directed to enter into a contract on behalf of the City of Austin with P. S. Mangum for the laying of certain water mains, sanitary sewer mains, and other pipes in Forrest Hills "B" Subdivision, in accordance with the terms and provisions of a certain contract, a copy of which is attached to this Resolution

and made a part hereof for all purposes.

(Copy of Contract attached)

THE STATE OF TEXAS :

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS :

This contract made and entered into by and between the City of Austin, a municipal corporation situated in Travis County, Texas, hereinafter for convenience sometimes called the City, and P. S. Mangum, of Travis County, State of Texas, hereinafter for convenience sometimes called the Customer;
W I T N E S S E T H :

I.

(a) The City of Austin for the consideration hereinafter stated agrees to furnish all labor, tools, equipment, implements, appliances, and materials necessary to lay and agrees to lay the certain water mains and other pipes in Forest Hills "B" Subdivision on the streets and at the locations described as follows:

Six-inch (6") cast iron water main or equivalent in Chestnut Avenue, from Manor Road to East 32nd Street.

Two-inch (2") cast iron water main on Manor Road, from Chestnut Avenue eastward 450'.

(b) The City of Austin for the consideration hereinafter stated agrees to furnish all labor, tools, equipment, implements, appliances and materials necessary to lay and agrees to lay the certain sanitary sewer mains and other sewer pipes in Forest Hills "B" Subdivision on the streets and easements at the locations described as follows:

Sewer main in Chestnut Avenue, from Manor Road to East 32nd Street.

II.

It is estimated that all the work contemplated under Paragraph I above will cost the sum of Thirty-five Hundred Dollars (\$3500.00) when completed, of which cost the sum of Twenty-five Hundred Dollars (\$2500.00) is estimated to be the cost of the water lines and the sum of One Thousand Dollars (\$1,000.00) is estimated to be the cost of the sewer lines; and the Customer in consideration of the foregoing obligations to the City, which are assumed for the benefits of the Customer in order to furnish water service and sewer to him, agrees to deposit the sum of Thirty-five Hundred Dollars (\$3500.00) with the City of Austin prior to commencement of the work.

III.

Within a reasonable time after deposit of the sum or sums of money as provided in Paragraph II, the City of Austin agrees to commence construction of the utility improvements described in Paragraph I and to prosecute said work in a good and workmanlike manner and with reasonable diligence until fully completed; but delays occasioned by matters and events over which the

City has no control shall be excepted and not included in the time reasonably required to complete the work.

IV.

The deposit provided for in Paragraph II is an estimate only of the cost of constructing the utility improvements described in Paragraph I; and it is agreed that if the actual cost of such work is less than the amount deposited by the Customer, the City of Austin after the work is completed will refund to the Customer the difference between the actual cost and the estimated cost of such work, but if the actual cost of such work shall exceed the amount of said deposit, the Customer agrees upon notice from the City immediately to deposit an additional sum to make up the difference between the estimated cost and the actual cost of the work.

V.

Immediately after completion of the utility improvements described in Paragraph I, the City of Austin will furnish to the Customer a statement of such costs, together with the date of completion of the work; and the City of Austin is hereby authorized, through its officers or agents, to note on this contract the correct figure stating the actual cost of such work and the date of completion.

VI.

It is agreed that the Customer shall be reimbursed for the money deposited as provided in Paragraph II above in the following manner:

Within sixty (60) days after the first day of January following completion of the work described in Paragraph I, the City shall pay to the Customer a sum equal to twice the gross amount of income realized by the City from the service and sale of water for usual, customary, and normal domestic, commercial, and industrial uses to customers having a direct connection with the water mains and sewer lines described above for the period of time immediately preceding the first day of January; and within sixty (60) days after the first day of January of each succeeding year the City agrees to pay to the Customer a sum equal to twice the gross income realized by the City during the preceding calendar year from the service and sale of water from said water lines for usual, customary, and normal domestic, commercial and industrial uses to customers having a direct connection with said water mains and sewer lines, until the total amount of the cost of construction of the utility improvements has been repaid; but in no event shall the City make such payments for a period of time longer than ten (10) years from the date of completion of said work (as such date is noted hereon under provisions of Paragraph V), even though the full cost of such work at the end of said time has not been refunded in full to the Customer; and if at any time before the expiration of said ten (10) year period the principal sum of such cost has been repaid further payment shall cease.

VII.

It is agreed that the City may make such repairs and changes in all of said utility improvements, pipes, hydrants, and connections necessary to

the orderly conduct of proper utility systems. Title to all said utility improvements shall be and remain at all times in the City of Austin.

VIII.

It is agreed that this contract is made with reference to the existing charter and ordinances of the City of Austin and laws of the State of Texas pertaining to all matters affecting this contract, and the Customer agrees to comply with all provisions of such laws, ordinances and charter.

IX.

It is agreed that the City of Austin may at its option retain any part or all of the deposit made by the Customer in compliance with Paragraph II and IV of this contract and refuse to make the payments and refunds provided for in Paragraphs IV and VI of this contract in the event the Customer shall fail or refuse to comply substantially with any obligation lawfully imposed on the City of Austin regylating the platting, planning, and development of subdivisions within the City of Austin.

IN TESTIMONY WHEREOF, the City of Austin has caused this instrument to be executed in duplicate by its City Manager, attested by its City Clerk, with its corporate seal affixed, and the said P. S. Mangum has executed this instrument in duplicate this the ___ day of _____, 1948.

CITY OF AUSTIN

By _____
City Manager

P. S. Mangum

Attest:

City Clerk

Approved:

Director of Utilities

Director of Public Works

City Attorney

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

- Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
- Noes : None

The Mayor called up for its second reading, the following ordinance:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE ENTITLED "AN ORDINANCE REGULATING TRAFFIC UPON THE PUBLIC STREETS OF THE CITY OF AUSTIN; PRESCRIBING PENALTIES FOR THE VIOLATION OF SAME; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY," WHICH ORDINANCE WAS PASSED BY THE CITY COUNCIL OF THE CITY OF AUSTIN MAY 6, 1937, AND IS RECORDED IN BOOK "K", PAGES 159-179, INCLUSIVE, OF THE ORDINANCE RECORDS OF THE CITY OF AUSTIN, BY AMENDING SECTIONS 21(b), 22(e), 22(f), 23(d), and 26(a), OF ARTICLE IV, RELATING RESPECTIVELY TO NO-PARKING, ONE-HOUR PARKING, TWO-HOUR PARKING, LOADING ZONE, AND ANGLE PARKING LOCATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

The ordinance was read the second time and Councilman Glass moved that the rule be suspended and the ordinance be passed to its third reading. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The ordinance was read the third time and Councilman Glass moved that the ordinance be finally passed. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The Mayor then announced that the ordinance had been finally passed.

Councilman Johnson offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, Texas Public Service Company has presented to the City Council tentative maps or plans showing the proposed construction of its gas mains in the streets in the City of Austin hereafter named, and said maps or plans have been considered by the City Council; therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT Texas Public Service Company be and the same is hereby permitted to lay and construct its gas mains in and upon the following streets:

- (1) A gas main in EAST 53RD STREET, from a point 36 feet west of Eilers Avenue easterly to Bruning Avenue, the centerline of which gas main shall be 7.5 feet south of and parallel to the north property line of said East 53rd Street.

Said gas main described above shall have a cover of not less than $2\frac{1}{2}$ feet.

- (2) A gas main in BRUNING AVENUE from East 53rd Street easterly approximately 85 feet, the centerline of which gas main shall be 7.5 feet south of and parallel to the north property line of said Bruning Avenue.

Said gas main described above shall have a cover of not less than $2\frac{1}{2}$ feet.

- (3) A gas main in CHERRY LANE from Robin Hood Trail westerly 301 feet, the centerline of which gas main shall be 7.5 feet south of and parallel to the North property line of said Cherry Lane.

Said gas main described above shall have a cover of not less than $2\frac{1}{2}$ feet.

- (4) A gas main in GEORGETOWN ROAD from a point 5 feet south of West 51st Street southerly to Capitol Court, the centerline of which gas main shall be 5.5 feet west of and parallel to the east property line of said Georgetown Road.

Said gas main described above shall have a cover of not less than $2\frac{1}{2}$ feet.

- (5) A gas main in CAPITOL COURT from Georgetown Road westerly 774 feet, the centerline of which gas main shall be 6.5 feet south of and parallel to the north property line of said Capitol Court.

Said gas main described above shall have a cover of not less than $2\frac{1}{2}$ feet.

The Texas Public Service Company is hereby put upon notice that the City of Austin does not guarantee that the space assigned above is clear from other underground utilities, but is based upon the best records we have at hand, and that the minimum depth stated does not have any reference to the fact that greater depths may not be required at special points. When the Texas Public Service Company requires definite information upon the ground as to elevations or working points from which to base the location of their assignments, they shall apply to the Department of Public Works not less than three (3) days before such information is required. The Texas Public Service Company is further put upon notice that they will be required to bear the expense of repairs or replacement of any underground utility damaged during the construction of lines named in this resolution.

And that whenever pavement is cut in the vicinity of a fire plug, water must be used at intervals during the course of backfilling of the ditches.

That the work and laying of said gas mains, including the excavation in the streets and the restoration and maintenance of said streets after said mains have been laid, shall be under the supervision and direction of the City Manager and under all the pertinent terms and conditions of the certain franchise granted to said Company by the City of Austin.

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Councilman Bartholomew offered the following resolution and moved its adoption:

(RESOLUTION)

WHEREAS, A. H. Neighbors, Sr., M. D., has made application in writing for permission to permit a sanatorium or home for aged people on Lots 5 and 6, Fischer Addition, Outlot 23, Division C, in the City of Austin, Travis County, Texas, the same being on the east side of Cole Street and locally known as 2909 Cole Street, and is located in a "B" Residence District, which requires a special permit from the City Council; and

WHEREAS, this application has been considered and approved by the City Council of the City of Austin; Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT permission for the operation of a sanatorium or home for aged people be granted to the tenants of A. H. Neighbors, Sr., M.D., with the following conditions:

1. That no mental or psychiatic patients be housed in such sanatorium or home for aged people.
2. That before the operation of such use, a permit must first be secured from the City Health Officer as required under the provisions of an Ordinance governing Convalescent Homes.

Which motion, carrying with it the adoption of the resolution, carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of HOMER GEORGE MONSON, 1412 Alameda Drive, for a license to operate as a taxicab a 1947 Model Oldsmobile, 4-door Sedan, Motor No. 6115456H, State License No. AA-4503, duly approved by the City Manager, was submitted. Councilman Glass moved that the license be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of DONALD BERNARD EZZELL, 1803 Menwood Avenue, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Johnson moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

The application of WAVY LINCOLN FAUGHT, 205 East 14th Street, for a taxicab driver's permit, duly approved by the City Manager, was submitted. Councilman Johnson moved that the permit be granted. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

Councilman Glass moved, that upon the recommendation of the City Manager, the application of MARCELLUS JAMES WASHINGTON, JR., Colored, 2001 East 12th Street, for a taxicab license covering a 1942 Model Fleetline Chevrolet, Motor No. BA-80516, State License No. JD-7865, be granted for ninety days

probation. The motion carried by the following vote:

Ayes : Councilmen Bartholomew, Glass, Johnson, Mayor Miller
Noes : None

A petition signed by residents living within one block of a proposed sports arena, to be known as "Gun and Rod Club", protesting against skeet shooting and other dangerous sports there, was received; and the matter was referred to the City Manager for attention.

Action on the application of W. W. Patterson and Lem Scarbrough for a change in zoning, from "A" Residence District to "C" Commercial District, of property located on the west side of Duval Street north and south of East 51st Street, which was deferred at last regular meeting, was again deferred to the next regular meeting.

Upon motion, seconded and carried, the meeting was then recessed, subject to call of the Mayor.

Approved: Tom Miller
MAYOR

Attest:

Hellen M. Kellan
CITY CLERK